

REMARKS

The Applicant is filing this Preliminary Amendment as the submission to an accompanying Request for Continued Examination in response to a Final Official Action dated September 7, 2005. At the time of the Final Office Action, claims 1-23 were pending. In the present Preliminary Amendment, claims 1, 9, 13, 19, 21, 22 and 23 are amended and claim 10 is canceled. No new claims have been added. Accordingly, claims 1-9 and 11-23 are currently pending.

In the Final Office Action, the Examiner rejected claims 1, 2, 4, 8, 9-14 and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,790,895 to Krantz et al. ("Krantz"). Claims 3, 5, 15, and 21-23 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by Krantz in view of U.S. Patent Publication 20020032785 to Britt Jr. et al. ("Britt"). Claims 6, 7 and 16 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by Krantz in view of U.S. Patent No. 6,671,343 B1 to Tsugio Ito ("Ito"). These rejections are addressed in detail below.

Rejection Under 35 U.S.C. § 102(b)

With respect to the rejection of claims 1, 2, 4, 8, 9-14 and 17-20 under 35 U.S.C. § 102(b) as being anticipated by Krantz, the rejection of claim 1, set forth below, is exemplary:

As per claim 1, Krantz teaches a remote server management controller (Fig. 1a, Fig. 1b), comprising: an external communication interface (Fig. 1A element 149) adapted to receive data from a remote user (column 12 lines 17-36);

The reference teaches the modem (external communication interface) receives the incoming call and

examines the first few characters from the incoming call (receiving data) from the remote user

-an input/output processor (IOP) adapted to: receive data from the external communication interface (column 10 lines 46-64); and

The reference teaches the input/output processor (IOP) receives data from the modem (external communication interface).

-transmit data corresponding to the data received from the external communication interface to an operating system (OS) of a managed server; and a virtual communication device (VCD) interface adapted to intercept data received from the OS, the VCD interface comprising a pre-defined standard communication interface (column 10 lines 55-67)(column 11 lines 1-9, lines 26-31), the data received from the OS being intended for a specific communication interface, and to redirect the data received from the OS to the remote user via the external communication interface instead of directing the data received from the OS to the specific communication interface (column 10 lines 55-67)(column 11 lines 1-9, lines 26-45)(column 12 lines 17-36).

The reference teaches sending the resource data to the operating system of the server and the Virtual communication port of the device intercepts the data. The data is sent to the remote computer (remote user) via the modem (external communication port).

The reference also teaches the virtual communication device comprises predefined standard communication interface as COM1 through COM4 interface (column 10 lines 55-67) (column 1 lines 1-9, lines 26-31).

Office Action, pp. 2-3.

The Applicant respectfully traverses the rejection. Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically

shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under Section 102, a single reference must teach each and every element or step of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Thus, if the claims recite even one element not found in the cited reference, the reference does not anticipate the claimed invention.

Krontz cannot anticipate independent claims 1, 9, and 13, as amended, because Krontz does not include each and every element recited in those claims. For example, independent claim 1 recites “an external communication interface adapted to communicate according to a first communication protocol....” Additionally, claim 1 recites “a virtual communication device (VCD) interface adapted to intercept data received from the OS, the data being in a format that is not compatible with the first communication protocol, the data not being addressed to the external communication interface, *to format the data for transmission according to the first communication protocol*, and to redirect the formatted data to the external communication interface instead of a specific communication interface to which the data was addressed.”

Independent claim 9 recites an external communication interface “that is adapted to communicate according to a first communication protocol.” Claim 9 also recites a virtual communication device that is adapted to intercept responsive data that is “in a format that is not compatible with the first communication protocol.” According to claim 9, the virtual communication device is also adapted to “*format the responsive data for transmission according to the first communication protocol*” and to “redirect the formatted data to the

external communication interface instead of a specific communication interface to which the responsive data was addressed.”

Independent method claim 13 recites the act of “receiving a request for OS information from a remote user via an external communication interface that is adapted to communicate according to a first communication protocol.” Claim 13 also recites receiving responsive data “that is not compatible with the first communication protocol, the responsive data not being addressed to the external communication interface.” Additionally, claim 13 recites “*formatting the responsive data for transmission according to the first communication protocol*” and “redirecting the formatted data to the external communication interface instead of a specific communication interface to which the data was addressed.”

In contrast to the claimed subject matter, Krontz discloses “an apparatus which shares a resource ... between [computer applications]” Krontz, col. 2, lines 43-45. “More specifically, [the] apparatus [is] for sharing [a] modem between an operating system and a remote console [program].” Krontz, col. 1, lines 6-9. Krontz makes use of a “virtual port [which] divert[s] accesses ... directed at [the] communication port and buffer[s] the accesses in said virtual port.” Krontz, col. 34, lines 62-64.

Krontz, however, does not disclose a system in which a virtual communication device intercepts data addressed to a specific device, formats the data for transmission via an external communication interface, and redirects that data to the external communication interface. Moreover, the system disclosed in Krontz redirects data between different computer resources *according to a common communication protocol*. Krontz, therefore, does

not disclose the redirection of data to an external communication interface that operates according to a different communication protocol in order to make that information available via the external communication interface.

For at least these reasons, it is clear that Krontz does not contain each and every element set forth in independent claims 1, 9, and 13. Krontz, therefore, fails to anticipate independent claims 1, 9, and 13, as well as the claims dependent thereon. Accordingly, the Applicant requests withdrawal of the rejection under Section 102 of independent claims 1, 9 and 13, and dependent claims 2, 4, 8, 11, 12, 14, 17 and 20. An indication of the allowability of those claims is earnestly solicited.

Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 3, 5, 15 and 21-23 under 35 U.S.C. § 103(a) as being rendered obvious by Krontz in view of Britt. Claims 6, 7 and 16 were rejected under 35 U.S.C. § 103(a) as being rendered obvious by Krontz in view of Ito. The Applicant respectfully traverses the rejections.

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (B.P.A.I. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to

why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Claims 3, 5, 15 and 21-23

Claims 3, 5 and 21 depend from independent claim 1. Claim 22 depends from independent claim 9. Claims 15 and 23 depend from independent claim 13. The Applicant respectfully submits that claims 3, 5, 15 and 21-23 are allowable based on these dependencies, because Britt does not cure the deficiencies regarding Krontz, which are described above. Specifically, Britt does not disclose a VCD that includes the limitations discussed above with respect to the rejection of independent claims 1, 9 and 13 under Section 102. For at least these reasons, claims 3, 5, 15 and 21-23 are believed to be allowable over the cited references taken alone or in combination with each other. Thus, the Applicant respectfully requests withdrawal of the rejection of claims 3, 5, 15 21-23.

Claims 6, 7 and 16

Claims 6 and 7 depend from independent claim 1, and claim 16 depends from independent claim 13. The Applicant respectfully submits that claims 6, 7 and 16 are allowable based on these dependencies, because Ito does not cure the deficiencies regarding Krontz, which are described above. Specifically, Ito does not disclose a VCD that includes

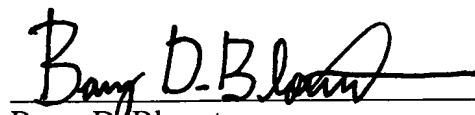
the limitations discussed above with respect to the rejection of independent claims 1, 9 and 13 under Section 102. For at least these reasons, claims 6, 7 and 16 are believed to be allowable over the cited references taken alone or in combination with each other. Thus, the Applicant respectfully requests withdrawal of the rejection of claims 6, 7 and 16.

Conclusion

In view of the remarks set forth above, the Applicant respectfully requests reconsideration of the Examiner's rejections and allowance of all pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: December 6, 2005

A handwritten signature in black ink, appearing to read "Barry D. Blount", is written over a horizontal line.

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